

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 1171-01
Bill No.: Perfected HB 453
Subject: Missouri Emergency Response Commission; Surface Mining Permits; Secretary of State Fees
Type: Original
Date: March 15, 2001

FISCAL SUMMARY

ESTIMATED NET EFFECT ON STATE FUNDS			
FUND AFFECTED	FY 2002	FY 2003	FY 2004
Chemical Emergency Preparedness Fund	\$0	\$211,060	\$266,604
Secretary of State's Technology Trust Fund Account	\$1,150,000	\$2,300,000	\$2,300,000
Mined Land Reclamation Fund**	\$80,822	\$20,171	\$22,260
Total Estimated Net Effect on <u>All</u> State Funds	\$1,230,822	\$2,531,231	\$2,588,864

**** DOES NOT REFLECT UNKNOWN HEARING EXPENSES**

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2002	FY 2003	FY 2004
None	\$0	\$0	\$0
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2002	FY 2003	FY 2004
Local Government	\$0	\$391,971	\$495,120

Numbers within parentheses: () indicate costs or losses.

This fiscal note contains 7 pages.

FISCAL ANALYSIS

ASSUMPTION

Assumptions in reference to the component of the proposal addressing the Emergency Response Commission

In response to similar legislation (HB 453), officials from the **Office of Administration** assume the proposed legislation would have no fiscal impact on their agency.

In response to similar legislation (HB 453), officials from the **Department of Public Safety - State Emergency Management Agency** noted that the numbers reflected are based on the collection of fees from prior years. The Chemical Emergency Preparedness Fund is self-supporting at the current fee structure.

Of the fees collected, the Division of Fire Safety receives 10% and this 10% is used for the training of firemen and first responders for hazardous materials incidents. Additionally, local governments receive 65% of the fees collected and, for administration, the Missouri Emergency Response Commission (MERC) receives 25% of the fees collected.

Assumptions in response to the component of the proposal addressing the Secretary of State's Technology Trust Fund Account

Oversight notes that based on information obtained from the Office of Administration - Division of Accounting's Financial Summaries for FY's 98 through 00, the receipts for the Secretary of State's Technology Trust Fund Account for FY 98 were \$2,300,375, for FY 99 were \$2,243,058 and for FY 00 were \$2,332,062. Averaging the receipts for the noted fiscal years, the fund is averaging fiscal year receipts of approximately \$2,291,832 or approximately \$2,300,000. Using this \$2,300,000, **Oversight** assumes the receipts for this fund for FY 02 will be \$1,150,000 and for FY's 03 and 04 will be \$2,300,000. In FY 02 the receipts are prorated at six (6) months due to the fact that per current law the fees would expire on December 31, 2001. Therefore, the fiscal impact in FY 02 is only six (6) months.

Assumptions in response to the component of the proposal addressing the surface mining permits

In response to similar legislation (HCS for HB 239), officials from the **Office of State Courts Administrator** and the **Office of Attorney General** assume the proposed legislation would have no fiscal impact on their agencies.

ASSUMPTION (continued)

Officials from the **Department of Natural Resources** (DNR) noted that currently, section 444.772.10 limits the fee for an industrial minerals permit by statute to a maximum of \$500 (currently \$350) for each permit to include all sites under that permit, plus \$40 for each acre under permit. This legislation will increase to a maximum of \$600 per permit plus each site not to exceed \$300. In addition, each bonded acre under the permit will require a maximum \$10 fee. For operators whose bonded acres exceed 100 acres, those acres will require a maximum \$5 fee. There is also a maximum of \$2500 per permit in fees. Sand and gravel operators who mine less than 5000 tons annually shall be \$300. These fees shall be set to recover the costs of administering and enforcing the provisions of the law. Each year the director shall submit a report to the commission and the public that describes the number of employees and the activities performed the previous calendar year. Officials noted that permits are renewed yearly.

Currently Section 444.773.3, RSMo allows the department to hold a public hearing only if a person's health, safety or livelihood is affected by noncompliance with any applicable laws or regulations. The department has received numerous requests for public hearings throughout the years, but has denied these requests in accordance with the present statutory criteria (allowing a hearing only if noncompliance affects a person). The department has held only one hearing related to a surface mining permit.

The proposed legislation grants a public meeting if requested by interested persons and also allows them to request a public hearing, as defined by Chapter 536, RSMo, if requested by any interested person. The department assumes the proposed legislation would apply to any permit action which would meet the public notice requirements. The department averages approximately 60 new applications per year; last calendar year the department received 70 new applications.

Officials estimate that about one-half of these applications will result in a public meeting, and about 6 of these may result in a public hearing, as required in RSMo 444.880. Due to the public interest in new permits the department anticipates many requests for meetings.

After holding a public meeting, interested parties may request a public hearing. Under the current criterion, the department has never denied a land reclamation mining permit. But due to the sensitivity of the new criterion, that an interested party's health, safety or livelihood will be unduly impaired by the issuance of the permit, to request a public meeting or hearing, the department assumes there would be an increase in the number of permits going through the permit appeals process.

The department would request one (1) additional FTE to carry out the duties related to arranging meeting places and time, research time, and presentation of the department's permit position.
ASSUMPTION (continued)

The department does not have the necessary resources to implement the proposed legislation. In

addition, if the actual number of public meetings exceed these projections the department may need to request additional resources.

The department would request one Land Reclamation Specialist to investigate requests for the public hearings, gather information concerning requests, schedule the public hearings, present and verify such evidence before the hearing officer, and then communicate findings to the Land Reclamation Commission.

Oversight has reduced the personal service costs and the expense and equipment costs submitted by the DNR to reflect those costs used in the fiscal note for a similar proposal from the 2000 session, and then increased these costs for inflation.

<u>FISCAL IMPACT - State Government</u>	FY 2002	FY 2003 (10 Mo.)	FY 2004
CHEMICAL EMERGENCY PREPAREDNESS FUND			
<u>Income</u> - Department of Public Safety Continuance of fee collection due to extension of sunset date	\$0	\$603,031	\$761,724
<u>Cost</u> - Department of Public Safety Distribution to local government	<u>\$0</u>	<u>(\$391,971)</u>	<u>(\$495,120)</u>
Estimated Net Effect on CHEMICAL EMERGENCY PREPAREDNESS FUND	<u>\$0</u>	<u>\$211,060</u>	<u>\$266,604</u>

<u>FISCAL IMPACT - State Government</u>	FY 2002 (6 Mo.)	FY 2003	FY 2004
SECRETARY OF STATE'S TECHNOLOGY TRUST FUND ACCOUNT			

<u>Income</u> - Continuation of fee collection	<u>\$1,150,000</u>	<u>\$2,300,000</u>	<u>\$2,300,000</u>
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<u>FISCAL IMPACT - State Government</u>	FY 2002 (10 Mo.)	FY 2003	FY 2004
MINED LAND RECLAMATION FUND			

Income - Department of Natural Resources

Permit Fee Restructuring	\$166,322	\$200,388	\$200,388
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Cost - Department of Natural Resources

Personal Service (1 FTE)	\$0	(\$37,526)	(\$38,464)
Fringe Benefits	0	(\$12,507)	(\$12,820)
Expense and Equipment	0	(\$12,764)	(\$5,901)
	\$0	(\$62,797)	(\$57,185)

Other Cost - Department of Natural Resources

		(\$117,420)	(\$120,943)
Hearing Expenses		to	to
	(\$85,500)	(Unknown)	(Unknown)

Estimated Net Effect on

MINED LAND RECLAMATION FUND**	<u>\$80,822</u>	<u>\$20,171</u>	<u>\$22,260</u>
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**** DOES NOT REFLECT UNKNOWN HEARING EXPENSES**

FISCAL IMPACT - Local Government

FY 2002

FY 2003
(10 Mo.)

FY 2004

Local Government

Income - Local Government

Fees received from Department of Public Safety	<u>\$0</u>	<u>\$391,971</u>	<u>\$495,120</u>
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FISCAL IMPACT - Small Business

In reference to the component addressing the Emergency Response Commission, those small businesses currently paying fees for storage of hazardous materials would be fiscally impacted as a result of this proposal. In reference to the component of the proposal addressing surface mining permits, small businesses could be affected by the provisions of this proposal.

DESCRIPTION

Fees for the Missouri Emergency Response Commission expire on August 28, 2002. This proposal extends the fees to August 28, 2012.

AK:LR:OD (12/00)

The proposal also extends the Secretary of State's Technology Trust Fund Account fees to December 31, 2009.

This proposal makes numerous changes to surface mining law.

PERMIT FEES

Current law establishes annual fees for most surface mining permits at \$350 plus \$40 for each individual site mined during the year. There is also a fee of \$35 per acre when a permit application is originally filed. The Land Reclamation Commission may increase the basic annual fee to \$500. Gravel mine operators removing less than 5,000 tons per year pay \$100 plus \$35 per acre annually. The substitute allows the commission to establish fees that recover costs of administration and enforcement, with a basic annual fee cap of \$600 and additional annual fees of no more than \$10 per acre and \$300 per site. The fee for each acre over 100 is reduced by 50%, and the site fee is reduced by 50% if mining occurs for less than 6 months of the year. Total annual fees for each permit are capped at \$2,500. Gravel mine operators removing less than 5,000 tons per year pay \$300 annually. All fees expire on December 31, 2007.

PUBLIC NOTICE REQUIREMENTS

Under current law, applicants for surface mining permits are required to publish a notice in a newspaper of general circulation in the local area, interested parties may submit written comments to the Department of Natural Resources or request a public hearing for 15 days after the application is filed, and the department must forward a recommendation on the permit to the commission by the end of the public comment period. The substitute requires applicants to publish a notice once a week for 4 weeks, beginning no more than 10 days after the application is complete. Applicants are also required to notify by certified mail the local governing body and owners of property adjacent to the proposed surface mine. Notices must include a statement that interested parties may submit written comments to the department or request a public meeting or a formal hearing for up to 15 days after the end of the public notice period.

The department must forward its recommendation on the permit to the commission within 4 weeks after the end of the public notice period. If a public meeting was requested and the applicant agrees, the department and applicant will conduct the meeting within 30 days after the end of the comment period, and the department will make a recommendation to the commission within 30 days after the meeting. If issues are not resolved at the public meeting and a formal

DESCRIPTION (continued)

public hearing is requested, the commission may conduct a hearing. The commission may deny the permit if there is substantial evidence that the applicant has a reasonable likelihood of noncompliance or that mine operations will impair the health, safety, or livelihood of an interested party.

RECLAMATION STANDARDS

Currently, surface mine operators must begin reclamation as soon as possible after commencement of mining and, after their permit expires, complete grading within 12 months and seeding and planting within 24 months. The substitute requires operators to begin reclamation as soon as possible after completion of mining in a portion of their permitted area and to complete grading within 12 months and seeding and planting within 24 months.

The department may require erosion control measures on overburden stockpiles if the erosion is causing damage outside the permitted area. Grading and replacing topsoil may not be required in rugged areas intended for wildlife habitat or in areas reclaimed for industrial use. To reclaim land mined previously as a substitute for reclaiming currently mined land, operators must submit a plan and provide written permission of the landowner.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Department of Natural Resources
Department of Public Safety - State Emergency Management Agency
Office of Administration
Office of Attorney General
Office of State Courts Administrator



Jeanne Jarrett, CPA
Director

March 15, 2001